

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
HELENA DIVISION

BOBBY FRANCIS LOWRY,

Plaintiff,

vs.

CAPTAIN BRAGG AND SHERIFF LEO  
DUTTON,

Defendants.

CV-22-23-H-JTJ

ORDER

On April 18, 2024, the Court granted summary judgment to Defendants in this matter. (Doc. 90.) Plaintiff Bobby Francis Lowry has filed a Fed. R. Civ. P. 59(e) motion. (Doc. 92.) The motion will be denied.

A district court may reconsider its grant of summary judgment under either Fed. R. Civ. P. 59(e) (motion to alter or amend a judgment) or Rule 60(b) (relief from judgment). *Sch. Dist. No. 1J, Multnomah Cnty., Or. v. ACandS, Inc.*, 5 F.3d 1255, 1262 (9th Cir. 1993). Lowry relies on Rule 59(e), which permits a court to alter or amend a judgment, if filed no later than 28 days after entry of judgment. It “may not be used to relitigate old matters, or to raise arguments or present evidence that could have been raised prior to the entry of judgment.” *Exxon Shipping Co. v. Baker*, 554 U.S. 471, 486 (2008) (internal citations omitted.) “A district court generally should not grant a Rule 59(e) motion in the absence of

“newly discovered evidence,” “clear error,” or “an intervening change in the controlling law.” A Rule 59(e) motion may *not* be used to raise arguments or present evidence for the first time when they could reasonably have been raised earlier.” *Wells Fargo Bank, N.A. v. Mahogany Meadows Ave. Tr.*, 979 F.3d 1209, 1218 (9th Cir. 2020) (internal citations omitted).

Lowry’s motion reiterates and expands arguments he made in his summary judgment briefing. He raises nothing new and relevant that he did not or could not have raised in the course of the prior briefing. Nor does he convince the Court that its prior judgment was incorrect.

Accordingly, it is HEREBY ORDERED that Lowry’s motion is DENIED.

DATED this 25th day of July, 2024.



John Johnston  
United States Magistrate Judge